IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2358 of 1997

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KANTILAL G PATEL

Versus

AMRUTBHAI A PATEL/MEMBER

Appearance:

1. Special Civil Application No. 2358 of 1997

MR YN OZA for Petitioner No. 1

MR TUSHAR MEHTA for Respondent No. 1

NOTICE SERVED for Respondent No. 2,4

GOVERNMENT PLEADER for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 06/09/2004

ORAL JUDGEMENT

1. The present petition arises against the order dated 30.1.1997 passed by the Collector and its confirmation thereof as per the order dated 11.3.1997 passed by the Director of Municipalities, whereby the petitioner is disqualified to continue as a Councillor of the Municipality under Section 38 of the Gujarat Municipalities Act.

2. Considering the facts and circumstances and the perusal of the impugned order shows that the petitioner is disqualified to hold the office as a Councillor under Section 38 of the Act and the impugned order has been passed. It has been stated by the petitioner in the petition that the petitioner has been elected on 31.12.1995. As a Councillor of Mansa Nagarpalika as per the provisions of Gujarat Municipalities Act, the term of the Councillor of Municipality is for a period of five years and not more and, therefore, by afflux of time, the statutory term of the petitioner is over in the year 2000. When the matter was admitted on 8.8.1997 by this Court, the interim relief was refused and, therefore, since the statutory term is over in the year 2000, the petition has become infructuous by afflux of time and as per the settled legal position, the Court would not undertake the exercise of deciding the issues for academic purpose and, therefore, the present petition is disposed of as it has become infructuous by afflux of time. Rule discharged.

6.9.2004 (Jayant Patel, J.)

vinod